

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RICKY A. SHAW,	:	CIVIL ACTION
	:	(Judge Connor)
Plaintiff,	:	
	:	
v.	:	
	:	
CUMBERLAND TRUCK	:	
EQUIPMENT CO.,	:	
	:	
Defendant.	:	NO. 09-359

**DEFENDANT CUMBERLAND TRUCK EQUIPMENT CO.'S
BRIEF IN OPPOSITION TO PLAINTIFF'S
RULE 59(e) MOTION FOR PREJUDGMENT INTEREST**

Defendant Cumberland Truck Equipment Co. ("CTE") opposes Plaintiff's Rule 59(e) Motion for prejudgment interest on the grounds that such Motion is premature. On June 16, 2011, CTE filed for post-judgment relief in the form of the entry of judgment as a matter of law pursuant to Fed. R. Civ. P. 50(b) or, in the alternative, a new trial pursuant to Fed. R. Civ. P. 59, or to alter or amend the verdict pursuant to Fed. R. Civ. P. 59(e) and for a stay of judgment ("Post-Trial Motion"). Briefing on the Post-Trial Motion is due to be filed by August 1, 2011. Consequently, Plaintiff's status as a "prevailing party" remains in question. Given that Plaintiff may not ultimately prevail on his ADA claim, Plaintiff's application for prejudgment interest should be denied as premature. Alternatively, any determination on prejudgment interest should be stayed pending the Court's final determination on the merits of this case.

In any event, CTE does not object to an award of prejudgment interest in the amount of \$1,135.57 should the Court ultimately find in Plaintiff's favor.

Wherefore, Defendant Cumberland Truck Equipment Co. respectfully requests that Plaintiff's Rule 59(e) Motion for prejudgment interest be denied.

Respectfully submitted,

s/Veronica W. Saltz
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Attorney for Defendant
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Dated: July 18, 2011

CERTIFICATE OF SERVICE

I, Veronica W. Saltz, attorney for Defendant Cumberland Truck Equipment Co. do hereby certify that on July 18, 2011, I caused a true and correct copy of the foregoing *Defendant Cumberland Truck Equipment Co.'s Brief in Opposition to Plaintiff's Rule 59(e) Motion for Prejudgment Interest* to be filed via the Official Court Electronic Document Filing System, and that said document is therefore available for viewing and downloading from the ECF system. By virtue of this filing, service upon the following counsel, being an Electronic Case Filing User, is complete upon counsels' receipt of the Court's e-mail notification of the Notice of Electronic Filing:

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s/Veronica W. Saltz
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